

EXHIBIT A

This Reconsideration request is based upon the following alleged errors of law or fact.

The Applicant is not seeking to alter the Hearing Examiner's Decision but rather to seek clarification of Condition 102 from the original approval decision which states:

The Applicant shall not commence site development until all utilities to include electrical power, portable water, fire flow, and sewage treatment are available to serve the site.

We raise the issue now because the Examiner referenced this condition in the current decision, Finding No. 15.

The Applicant has always interpreted "available" in this context to mean that the utility plans are approved, but not that every nut and bolt on a waste water treatment plant for example has been installed. This interpretation is consistent with the term "available" as it is used in other contexts. Water and sewer are considered to be "available" in the land use context generally if a water district or other provider, for example, indicates that it has plans to serve the site even if the infrastructure necessary to accomplish that has not been installed.

Here, the Park Junction Water-Sewer District has been formed and is a lawful entity. And, general water and sewer plans have approved for the District and are part of the record. What remains to be done is the actual preparation of detailed blueprints for the sewer treatment plant and its installation on site. The Applicants believe that the system is available and that some site development work can go forward. That work would include the utility lines within the graded streets.

That is certainly consistent with the conduct of the County and the Applicant over the years. A set of site development plans has been under review for some time. Even well prior to this, an earlier version of site development plans was submitted and reviewed. That would have been a pointless exercise for all concerned had there been no possibility of site development until years later. Any site development permit that would have been issued would have expired long before the sewer plant construction was complete.

That interpretation is also contrary to the milestones that the Examiner found at least preliminarily appropriate. For example, one of the elements of the milestones was the preliminary development of a wetland mitigation site. The whole idea of that was to get the mitigation site up and functioning this Spring before other wetland impacts occurred. The same milestones show the Sewer Plant construction to be further in the future just because of the time involved.

Likewise, the milestones contemplated completion of the Phase I site development and wetland review process in the early part of 2020 with construction later in the Spring. That would not be possible if actual site development had to be delayed for the time it will take to do final design and construction of the waste water treatment plant.

We ask that you make clear that Condition 102 allows preliminary site development prior to completion of the sewer treatment plan.

DATED this 21st day of November, 2019.

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